

§ 966.12

39 CFR Ch. I (7–1–13 Edition)

or her sole discretion, elects to conduct a review of the decision on his or her own initiative. During such review or appeal consideration, the Judicial Officer will accept all findings of fact in the original decision unless clearly erroneous. If following appeal or review, the Judicial Officer affirms the original decision, that decision becomes the final agency decision with no further right of appeal within the agency.

[77 FR 65106, Oct. 25, 2012]

§ 966.12 Waiver of rights.

(a) The Hearing Official may determine that the former employee has waived the right to a hearing, and that administrative offset may be initiated if the former employee files a petition for hearing after the period prescribed in these Rules and fails to demonstrate to the satisfaction of the Hearing Official good cause for the delay; or has filed a withdrawal of the former employee's previous petition for a hearing.

(b) The Hearing Official may determine that the Postal Service has waived the alleged debt at issue, and that the administrative offset may not be initiated if the Postal Service fails to file the answer within the period prescribed by the Rules and fails to demonstrate to the satisfaction of the Hearing Official good cause for the delay; or has filed a withdrawal of the debt determination at issue.

(c) In addition, whenever a record discloses the failure of either party to

file documents required by these rules, respond to notices or correspondence from the Hearing Official, comply with orders of the Hearing Official, participate in conferences, fail to treat the proceedings with the proper decorum, or otherwise indicate an intention not to continue the prosecution or defense of a petition, the Hearing Official may issue an order requiring the offending party to show cause why the petition should not be dismissed or granted, as appropriate. If the offending party shall fail to show cause, the Hearing Official may take such action as he or she deems reasonable and proper under the circumstances, including dismissal or granting of the petition as appropriate.

[77 FR 65106, Oct. 25, 2012]

§ 966.13 Ex parte communications.

Ex parte communications are not allowed between a party and the Hearing Official or the Official's staff. For these purposes, ex parte communication means an oral or written communication, not on the public record, with one party only with respect to which reasonable prior notice to all parties is not given, but it shall not include requests for status reports or procedural matters. A memorandum of any communication between the Hearing Official and a party will be transmitted to both parties.

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